THE SEPARATION OF SURFACE MINERAL ESTATES IN PUBLIC LAND DISPOSITION

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April 1964

*Mr. Tadd Linsenmayer was a Research Assistant in this office from October 1963 to June 1964. His paper has been reviewed by the senior staff of the Bureau of Land Management. The interpretations and conclusions are Mr. Linsenmayer's. The paper has been reproduced in the hope that its discussion of the origins of the separation of the mineral and surface estates would be helpful in the administration of the public land laws as well as background for legislation dealing with the retained mineral estates.

C O P Y - February 1976

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SUMMARY

The policy of separating the surface of public lands known or believed to contain minerals to be alienated for agricultural purposes with a reservation of mineral deposits to the Federal Government, was born at the beginning of the conservation crusade. Its executive sponsor, President Theodore Roosevelt, made it a part of a general mining leasing policy which he was recommending. Later, when it became evident that the Western oposition in Congress would prevent the passage of an effective leasing system, Roosevelt altered his plan from the leasing system to one of Federal supervision of the mineral deposits through lease or sale, and the separation policy was attached to this new plan.

Congress, however, was unable to agree on the method of disposition. In 1909, Representative Frank W. Mondell of Wyoming sponsored the separation policy to come to the rescue of settlers who were unable to obtain a patent on their agricultural claims because the lands had been subsequently classified as coal lands. His bill was passed and Mondell thus became the legislative author of the separation policy. Following the success of the 1909 bill, Mondell proposed a separation policy which would allow new agricultural entries on the coal lands for the purpose of developing the West and increasing the agricultural output of the country. After some debate this bill passed in 1910.

The Western Congressmen were reluctant to extend the separation policy to other lands because they still hoped to have the lands opened to entry under the old disposition laws. A bill in 1912 to allow agricultural entry on oil and gas lands was mutilated, and, when passed, applied only to Utah.

Finally in 1914, when Secretary of the Interior Franklin K. Lane went back to Roosevelt's original position and recommended a leasing system, the Western Congressmen agreed to extend the separation policy to other mineral and fuel lands in order to allow the lands to be developed while the more serious question of disposition was still being debated.

When the separation policy finally passed it differed from President Roosevelt's proposal in two important respects.

As Roosevelt first saw it, the separation policy was to be only a small part of the general plan of disposition for the mineral lands. It was first attached to a leasing system and then attached to a system of Federal supervision through lease or sale. The separation policy, however, was passed before Congress had settled the disposition issue, and thus no consideration was given at the time to the problem of coordinating the separation policy with the method of disposition Congress finally adopted.

In the second place, the separation policy as originally proposed by Roosevelt was based on the need for increased agricultural output, and, perhaps more important, the desire for businesslike efficiency. Its main function was to allow the dual use of the land for both agriculture and mining, and this, thought Roosevelt, was efficient. When passed, however, the separation policy, while still claiming the need for increased agricultural output, was in fact little more than an expedient used to appease certain settlers, and allow some development in the West while Congress debated the larger issue of the final disposition of the mineral lands. It was not what the Western Congressmen wanted, but it was, as Representative Marshall pointed out, "the only thing that we can get at this time."

THE SEPARATION OF SURFACE & MINERAL ESTATES IN PUBLIC LAND DISPOSITION

As Americans moved into the Twentieth Century they suddenly discovered that the great wealth of America's natural resources was rapidly falling into private hands. Many of them desired to preserve some of these precious resources for future use; they looked to their new President, Theodore Roosevelt, for help. Under his leadership the United States embarked on a new crusade -- conservation. The actions of this crusade applied mainly to the West, and many of the people there, resentful of what they considered interference in Western growth and development, strongly resisted.

Thus, conservation took on all of the appearance of a war -- a war of words and votes. Casualties were heavy. In some States advocacy of conservation was an asset at the polls; in others it was a definite liability. The stakes were high in this war, and the battles long and hard. One of them resulted in a division of the surface and mineral estate.

THE BATTLE BEGINS

Early in 1901, Senator George C. Perkins of California placed before Congress a joint resolution from the legislature of California. It asked the Secretary of the Interior to investigate the attempted selection of mineral lands as agricultural, since such selection was prohibited by law, and, if the agricultural claims were found to be fraudulent, asked him to use all lawful ways and means to prevent the consummation of such fraudulent agricultural selections.1/ The resolution perhaps marked the beginning of a growing public awareness that something was amiss in the disposal of the mineral lands. By 1905, when the extent of these frauds was determined, this awareness had turned into alarm, and many people began to demand action.2/

Between 1904 and 1905 the Secretary of the Interior, Ethan Allen Hitchcock, began to react to these demands. In his 1905 report to the President he stated:

> Since my last annual report the land service has been the scene of unusual activity. The prosecution of the ring of conspirators on the Pacific coast has been vigorously pushed*** /and/ investigations of alleged violations of the public-land laws in prosecuted***.3/

In Congress Senator Francis C. Newlands of Nevada introduced a bill on March 29, 1906, authorizing the President to reserve all coal and lignite found on the public lands for future disposal. Senator Robert M. LaFollette of Wisconsin, stating that the lands were rapidly falling under control of monopolies, introduced a similar measure of June 20, 1906. Neither of these bills, however, was reported out of the Public Lands Committee.

Roosevelt Takes Action

President Roosevelt's thoughts, however, went beyond the idea of merely holding the mineral lands to be sold at some future date. He thought that the Federal Government, in order to prevent a recurrence of such frauds, should retain control of the lands through a leasing system. His first approach to Congress came almost as an afterthought in a message concerning special railroad rates given to the Standard Oil Company.

> Furthermore, the time has come when no oil or coal lands held by the Government should be alienated. The fee to such lands should be kept in the United States Government*** and the lands should be leased only on such terms and for such periods as will enable the Government to keep entire control thereof.4/

Roosevelt was concerned not only with frauds and the danger of monopoly, which LaFollette had mentioned, but he was also quite concerned with the rate in which the Nations's natural fuels were being consumed. He pointed out that the amount of coal used in ten years was equal to that used during the preceding fifty years. "This remarkable development and the certain continuity of this prodigious growth compels us to recast all estimates as to the life of our 'inexhaustible resources'." He went on to say:

> If we dispose of all the coal lands now we can be well assured that twenty-five years hence the generation then coming to manhood will regret our shortsightedness and lack of provision for the future.5/

From the scant notice given to his first leasing proposal and from the fate of the reservation bills of Newlands and LaFollette, President Roosevelt saw that Congress would probably do nothing but talk while the mineral lands slipped out of Federal hands.6/ For him the time had come to act, even without Congress. He instructed Secretary of the Interior Hitchcock to withdraw the remaining public coal lands from entry, and so, between July 26, 1906, and December 13, 1907, 66,938,800 acres of coal land were withdrawn by executive order, and on August 15, 1907, the first oil lands were withdrawn. Later, after examination and classification, much of this land was restored to entry.

Withdrawal Authority: Pro and Con

Roosevelt acted under asserted legal authority well stated by his close associate and Secretary of the Interior, James Rudolph Garfield:

> Full power under the Consitution was vested in the executive branch of the Government, and the extent to which that power may be exercised is governed wholly by the discretion of the Executive, unless any specific act has been prohibited either by the Constitution or by legislation.
>
> In the exercise of this power it is the duty of the Executive to take such action as will protect the interests of all the people of the United States in their property rights***.
>
> President Roosevelt's withdrawal in 1906 of more than 66,000,000 acres of land supposed to contain coal, in order that it might be classified and saved for its best use, and the recent withdrawal of phosphate lands for the benefit of our farms, are notable examples of the exercise of this power in protecting the public use of our resources.7/

This thereby gives the Executive the legal power - indeed the duty - when the public interest is concerned, to take any necessary action unless that action is specifically prohibited by either the Constitution or by legislation. The power to withdraw lands from entry, while not specifically granted to the President, was nowhere specifically denied to him, and thus, according to this view, Roosevelt's action was entirely legal and justified.

The view of Executive authority was not shared by many in the West or in Congress where the withdrawal order brought forth cries of outrage. Among the loudest came from Representative Frank W. Mondell of Wyoming, the Chairman of the House Committee on Public Lands, to whom the withdrawals were--

unauthorized by law and not warranted by any authority granted to executive officers either directly and specifically or by any possible construction of any statute***. [We] have passed, so far as land laws are concerned, from a government under law and by statute to a government under which laws are annulled, suspended, or modified at the whim and pleasure of executive officials***.8/

The Supreme Court later sustained in U.S. v. Midwest Oil Co. the President's authority to make these withdrawals, however, on grounds other than those claimed here.

President Roosevelt's action in withdrawing the coal lands from entry was only the opening shot. The real battle over the subsequent disposition of the mineral lands was to last for well over a decade.

ROUND ONE -- LEASING

The struggles over the disposition of the mineral lands, which eventually led to the establishment of the separation policy, fall essentially into three rounds. In the first the separation policy was born and linked to a general leasing policy. In the second the separation policy was linked to a compromise policy of Federal supervision of the mineral lands. In the final round the separation policy was established independent of a general disposal plan. There were, of course, other rounds which finally led to the adoption of mineral leasing for some minerals notably oil and gas and coal. This paper, however, deals with the separation policy, and, therefore, ends with its adoption.

The Leasing System of Roosevelt

Once the withdrawals had eliminated, for the time being, the possibility of new fraud, the search was on for a method to prevent future fraud, i.e., to make sure that when the lands were again opened to entry there would be no possibility for fraud. To do this, Secretary Hitchcock sought the true source of the problem, and this he found in the obsolete land laws. In his 1906 report to the President he stated:

> Until, therefore, the opportunities afforded for the fraudulent acquisition of public lands by the timber and stone act * * *, the desert lands acts * * *, and the commutation clause of the homestead law * * *, are removed by the repeal or modification of those measures, the Government may expect to expend its money and energy in apprehending and convicting those seeking to defraud it out of its public lands.9/

President Roosevelt took up this idea in a special message to Congress on December 17, 1906. Just prior to this, in his annual message to Congress on December 4, 1906, Roosevelt had repeated the same call for a leasing system which he had made in his Standard Oil message. Now, in the December 17 message he forcefully presented his case.

> The present coal law limiting the individual entry to 160 acres put a premium on fraud by making it impossible to develop certain types of coal fields and yet comply with the law. It is a scandal to maintain laws which sound well, but which make fraud the key without which great natural resources must remain closed.

He then went on to advocate the leasing system as the best possible solution.

> My own belief is that there should be provision for leasing coal, oil, and gas rights under proper restrictions.10/

Reaction to Roosevelt's Proposal

After President Roosevelt's December 17 message there was a flurry of activity in Congress. Bills were introduced in both the House and the Senate, some calling for the withdrawal and leasing of various combinations of coal, oil, natural gas, and asphalt, and some calling for the return to the old system of direct sale. Still others would have turned the lands over to the States. All of these bills, of course, were referred to the Public Land Committees, and there most of them stayed.

During this same period the Western leaders in Congress -- Mondell in the House and Senator Thomas H. Carter of Montana in the Senate -- launched an attack on both Secretary Hitchcock and the withdrawals to which his name was linked. Mondell introduced a resolution demanding that Secretary Hitchcock explain the legal authority behind the withdrawals. Carter was not as restrained; he accused Secretary Hitchcock of making false and misleading reports concerning the frauds.

> I fully realize that even the President of the United States had been deceived and alarmed by the current, oft-repeated, and uncontradicted reports of the Secretary.11/

The Separation Policy - Tied to Leasing

In the midst of this activity the separation idea was being formed. On December 17, the same day that Roosevelt sent his message to Congress, Hitchcock issued a modifying order -- an order which is possibly the genesis of the separation policy.

> Referring to departmental order of July 26, 1906, and all subsequent orders withdrawing from entry, filing, or selection under the coal and other land laws, the public lands* * *in which* * *the Director of the Geological Survey alleged "workable coal is known to occur," you are advised that all of said orders are hereby modified so as to provide for the withdrawal of "such lands from coal entry merely."12/

Thus two issues were raised: First, the issue of the disposition of the coal as such, and second, the issue of the disposition of the lands containing the coal. Under existing law the title to the surface of the land included the right to the mineral deposit. This order, however, might seem to allow noncoal, or agricultural, entry on lands which were originally withdrawn because of their suspected coal content. However, by law such lands could not be sold as agricultural lands. This order, therefore, restricted the effect of the withdrawal to those withdrawn lands which did, in fact, contain coal deposits. If agricultural entries were to be permitted on lands containing coal deposits; then some change in the law would be necessary. Eventually that change was to be separation of mineral and surface estates. There is no mention of separation in the order itself, but it must have been under consideration at the time, for less than two months later, on February 13, 1907, it became part of President Roosevelt's general leasing policy.

The Combination Bill

On February 16, 1907, the House Committee on Public Lands reported a bill which provided for (1) the sale of unreserved coal lands, and (2) the leasing of the reserved coal lands with a provision for the separation and sale of the surface under agricultural land laws. The Committee report explained this peculiar combination.

> Different members of the committee are in favor of adopting a general leasing system, but the majority believe that to discontinue entirely at the present time the policy of selling portions of the public coal lands would retard seriously the development of the West* * *. It is thought that this bill, if passed, will afford an opportunity to test thoroughly the merits of the two systems side by side* * *.13/

In the accompanying minority report, however, Mondell wrote that he considered the leasing system portion of the bill --

> Dangerously socialistic, paternalistic, and centralizing in its character.14/

By March 4, Mondell's position had mellowed, and he stated that while he did not fully approve of all of the provisions of the bill, notably the leasing part, he considered that it would improve the existing situation.15/

March 4, however, was too late, for Congress adjourned without considering the bill.

ROUND TWO -- SUPERVISION

With the adjournment of the Fifty-Ninth Congress, the first round in the struggle over the mineral lands came to an end. In it the separation policy had been conceived and linked by President Roosevelt to a general leasing system. The bill which was reported out of committee, however, only vaguely resembled this plan. It was fairly obvious that the opposition of the West in Congress would continue to block the plan in the future. Roosevelt apparently decided that he must modify his plan for one of leasing to one of Federal supervision - either through sale or lease - if he was to get anything through Congress. This new plan opened a new round.

On February 19, 1907, three days after the House Committee on Public Lands reported out the combination lease-sale bill, President Roosevelt wrote a letter to Senator Robert M. LaFollette in which he indicated that -

> the point to be aimed at is not so much an indiscriminate forbidding of all combinations for whatever purpose, but rather a supervision which will prevent noxious combinations* * *.16/

This emphasis on "supervision" rather than on control is possibly the first indication that President Roosevelt was willing to modify his plan and accept any formula which would permit adequate Federal supervision.

Secretary Hitchcock resigned in March 1907, to be replaced by James Rudolph Garfield, son of the former President. Mondell was pleased at this change and promptly withdrew his resolution demanding an explanation of the legal authority behind the withdrawals. He also expressed hope -

> that with the incoming of a new administration of the Department we shall see an end of prejudice, muck-raking, and hysteria in the administration of the public-land laws* * *.17/

Separation and Supervision

By the time the new Sixtieth Congress convened in 1907, President Roosevelt was ready with his new plan. In his message to Congress on December 3, 1907, he set it forth.

> In my judgment the Government should have the right to keep the fee of the coal, oil, and gas fields in its own possession and to lease the rights to develop them under proper regulations; or else, if the Congress will not adopt this method, the coal deposits should be sold under limitations, to conserve them as public utilities, the right to mine being separated from the title to the soil.18/

The separation policy was thus tied to a system of supervision through either lease or sale. Roosevelt, like his new Secretary of the Interior, Garfield, still wanted a leasing system, but he was willing to accept a policy of sales provided that there was adequate limitation and supervision, and thus he placed the either/or decision in the hands of Congress.

As had happened after his December 17, 1906 message, there followed a flurry of bills, some for the sale of the mineral lands, some for the leasing of the lands, and once again some for the cession of the lands to the States. Nothing, however, was reported out of committee. The opposing forces in Congress were unable to resolve their differences.

ROUND THREE -- SOMETHING FOR THE SETTLERS

By late 1908 it was obvious that the struggle over the final disposition of the lands was likely to be a long one; in the meantime the lands would continue to lie idle. Further, many settlers who had entered agricultural lands which were later withdrawn because of their suspected coal content were unable to obtain patent to the lands.

The 1909 Act - Mondell to the Rescue

The plight of these settlers was to many persons quite distressing. Frank Mondell finally came to their rescue. On January 4, 1909, he introduced a bill which would allow the settlers to obtain a patent to their land with a reservation of the coal deposits to the Federal Government. Mondell had thus isolated the separation policy, for this was the first time that it had been suggested as anything but a part of a general disposal plan. Mondell's February 2, 1909 Committee on Public Lands report pointed out the settlers' problem.

> In many cases unnecessary hardship and expense has been laid upon the entrymen /who/ must defend their cliams at very considerable cost, or, as matters now stand, lose their land.19/

Secretary Garfield supported the principle of the bill, but wanted to extend it to include new entries which might be made on coal and asphalt lands. He later characterized the bill as "a step in the right direction, but far from what is needed."20/

There was little debate and even less opposition to the bill. Mondell again denounced the withdrawals which had, he said, created the problem. Representative Thomas F. Marshall of North Dakota, however, pointed out the expedient nature of the bill when he stated that he supported it because it

> affords partial relief to a small percentage of our people; and, in view of that, there are some of us, perhaps, who will accept it as being the only thing that we can get at this time.21/

The bill passed and became law on March 3, 1909. It was, then, the first bill of four which eventually established the separation policy.

The 1910 Act - Coal Only

The 1909 bill was successful in that Congress passed it, and so Mondell decided to try it again on a larger scale. He introduced a bill on December 10, 1909, which would separate the surface of all of the withdrawn coal lands and allow new agricultural entry with a reservation of the mineral deposits to the Federal Government. This bill, unlike the 1909 bill, met with opposition, for instead of solving an old problem, as the 1909 bill had done, some Congressmen thought that it would create new problems.

Mondell reported the bill on February 1, 1910, pointing out that the withdrawals of coal were quite extensive in the West covering many areas which were highly valuable for agriculture.

> As an example, the Sheridan-Gillette coal field, in Wyoming, underlies a territory over 125 miles long and varying in width from 10 to 50 miles. The major portion of the lands within this area have been classified as coal lands and, therefore, are not at present subject to agricultural entry, though the lands are fertile when irrigated, and a considerable portion of them are capable of raising good crops without irrigation.

Further, the need for increased agricultural production was, he said, obvious.

> The present high price of food products is a most forcible argument in favor of encouraging an increased production of agricultural products, and this bill, by making available millions of acres of lands, will largely increase the agricultural output of the country.22/

Thus, whereas the 1909 bill was passed to help a certain group of people, Mondell was advocating the 1910 bill to help a certain region -- the West. The proposed bill would allow the West to develop agriculturally in spite of the obnoxious withdrawals.

There was oposition to the bill even in the House Public Lands Committee. Representative Scott Ferris of Oklahoma in his minority report objected because: (1) there already was much land still available for agricultural entry; (2) selling coal land valued from $200 to $400 per acre at the price of agricultural land would eliminate a great source of revenue; and (3) the process of getting permission to prospect for and extract the coal was so complicated that no miner would attempt it, and thus the coal deposits would be lost. Representative William B. Craig of Alabama felt that the cost of paying damages on both the property and the improvements on the property might be so great as to prohibit the profitable mining of certain inferior grades of coal and sharply cut the profits on the better grades.23/

The new Secretary of the Interior, Richard A. Ballinger, appointed when President Taft took office, sided with Mondell, but wanted to extend the application of the bill to include oil and natural gas. (*)

By the time the bill came up for debate on the floor of the House, Mondell had polished and perfected his "development" thesis. He pointed out that Congress must either pass the separation act,

> or else give up the idea of reserving the coal to the Government, because the coal areas are so extensive that to withhold these lands from agricultural entry until such time as someone might desire to purchase them at the coal price would mean to close the door of opportunity and development in many western regions for generations to come. 24/

(*) In the 1910 controversy which swirled around Ballinger and eventually led to his resignation in 1911, Gifford Pinchot and others accused him of trying to reverse Roosevelt's plan of leasing the mineral lands. It must be remembered, however, that by December 1907, Roosevelt had altered this plan and was willing, although he still favored leasing, to accept a system of sale or lease as long as it provided for some Federal supervision. In Ballinger's 1909 annual report to the President he recommended precisely the same thing: the sale or lease of the coal deposits "with restrictions on their mining and use which would control the minimum output and conserve the deposits as a public utility." In his 1910 annual report to the President, Ballinger recommended the same thing, but this time stated that he felt that the sale plan was administratively more feasible. Thus, while Roosevelt preferred the leasing system and Ballinger preferred the system of sales, their recommendations to Congress were identical -- they both wanted sale or lease with adequate provision for Federal supervision.

Representative Joseph T. Robinson of Arkansas, however, was concerned about the effect of the bill upon the coal deposits. Like Mr. Ferris, he felt that the process of getting permission to prospect for and extract the coal was so costly and cumbersome that no miner would attempt it. Unlike Ferris, however, Robinson felt that the bill would do more harm than just preventing the development of the coal deposits. In the floor debates he stated:

> Instead of conserving to the Government and to future generations valuable coal deposits, the measure may have the effect, in all probability, of finally amassing the ownership of the surface in the hands of those who may design to secure the ownership of the coal; and under this very bill itself, which* * *does not guard against frauds or combinations, it is possible most of the lands will go into the hands of the coal barons, and by that means they will be able to further monopolize the coal industry.25/

In spite of this opposition from Robinson, Ferris, Craig, and others, the Mondell bill passed and ultimately became law on June 22, 1910.

The 1912 Act - Disposition Still An Open Question

The 1909 and 1910 acts separated the surface from the subsurface mineral deposits on the coal lands only. Efforts were now begun to extend the separation policy to include other mineral and fuel deposits as well, for while Congress was still debating the 1906-07 coal withdrawals, other withdrawals were being made. In December 1908, the first phosphate lands were withdrawn. On September 27, 1909, following the recommendations of George Otis Smith, Director of the Geological Survey, and Secretary Ballinger, President Taft withdrew 2,871,000 acres of oil land in California and 170,000 acres in Wyoming.

These withdrawals, like the 1906 coal withdrawals, were angrily denounced in Congress, while the heat over the coal withdrawals had cooled enough to allow the adoption of a separation policy covering them, the debate over these new withdrawals was still so strong that the Western Congressmen refused to include these other mineral lands in the separation bills as Ballinger had recommended.

No attempt to pass a separation bill for the other mineral lands was made for a full year after the 1910 bill was passed. Then, on July 18, 1911, Senator Reed Smoot of Utah introduced a bill to allow agricultural entry on oil and gas lands; it was referred to the Senate Committee on the Public Lands. There it stayed until the next session of Congress at which time it was reported out of committee and passed by the Senate on March 16, 1912. When Smoot's bill reached the House Public Lands Committee, under the control of the Western Congressmen who still opposed the oil withdrawals, it was amended to apply only to the State of Utah. The Committee report explained this change.

This committee, upon considering the matter, decided to limit the application of the measure to the State of Utah, where it appears that a large quantity of lands withdrawn as oil lands are, in all probability agricultural lands and not valuable for oil. Objections were asserted to making the bill general. Great demand has been made to this committee for the legislation affecting Utah. In many localities elsewhere the lands withdrawn as oil lands are not agricultural in character, and it is believed that the measure, which is in part experimental, should be limited for the present to the State of Utah.26/

According to this report, then, the bill was limited to Utah because in Utah many of the "oil" lands were actually agricultural, while in the other areas the lands were not agricultural. This may be true, but the element of bitterness over the oil withdrawals was still a contributing factor to the mutilation of Smoot's bill. In the debates Representative Joseph Howell of Utah stated:

The question of the proper disposition of oil-bearing lands is still an open question, and Members from the States having such lands did not desire to have such provisions as in this bill apply to their States.27/

Senator Smoot's bill became law on August 24, 1912, applying only to Utah. This was the third act in the establishment of the separation policy; the last for which there was any controversy.

The 1914 Act - Anticlimax

Roosevelt's idea of Federal supervision through either leasing or sale was carried through Taft's administration. While Taft in December 1910 recommended a leasing system, he also admitted that the question was open to discussion.

The Secretary of the Interior /Ballinger/ thinks there are difficulties in the way of leasing public coal lands* * *. I entirely approved his stating at length in his report the objections in order that the whole subject may be presented to Congress, but after a full consideration I favor a leasing system and recommend it.28/

When Franklin K. Lane became Wilson's Secretary of the Interior, he took up Roosevelt's original plan for a general leasing system expanded to include coal, oil, phosphate, and potash. With this renewed pressure for the leasing system, the Western Congressmen, seeing that they were in for another hard struggle over the question of the disposition of the mineral deposits, decided to take for the present what they could, separation of the mineral and surface estate.

The end was almost anticlimatic. On April 17, 1913, Senator Francis E. Warren of Wyoming introduced a bill to allow agricultural entry on oil lands, which was passed by the Senate in July and sent to the House where it was referred to the Public Lands Committee. In the following session the House Committee reported the bill out with an amendment which expanded it to include phosphate, nitrate, potash, oil, gas, and asphaltic minerals; in this form it passed and became law on July 17, 1914. With an enactment of this bill and the three which preceded it, the separation policy was firmly established. The principle reached its ultimate with the Stockraising Homestead Act of 1916 which automatically reserved all minerals in the lands to the United States. Leasing of fuel and fertilizer minerals was authorized in 1920.

FOOTNOTES

1. Congressional Record, 56th Congress, 2nd Session, p. 3186.
2. U. S. Geological Survey Bulletin, #537, p. 36.
3. Annual Reports, U. S. Department of the Interior, 1905, Vol. 1, p. 4.
4. Congressional Record, 59th Congress, 1st Session, p. 6358.
5. Congressional Record, 59th Congress, 2nd Session, p. 2807.
6. John Ise, The United States Oil Policy, Yale University Press, (1926), p. 310.
7. Annual Reports, U. S. Department of the Interior, 1908, Vol. 1, p. 12.
8. Congressional Record, 59th Congress, 2nd Session, p. 2615-18.
9. Annual Reports, U. S. Department of the Interior, 1906, Vol. 1, p.4.
10. Congressional Record, 59th Congress, 2nd Session, p. 450.
11. Ibid., p. 1935.
12. House Documents, 59th Congress, 2nd Session, #406.
13. House Reports, 59th Congress, 2nd Session, #7643, p. 6-7.
14. Ibid., p. 13.
15. Congressional Record, 59th Congress, 2nd Session, p. 4666.
16. Samuel P. Hays, Conservation and the Gospel of Efficiency, Harvard University Press, Cambridge, Massachusetts, (1959), p. 86.
17. Congressional Record, 59th Congress, 2nd Session, p. 4666.
18. Congressional Record, 60th Congress, 1st Session, p. 76.
19. House Reports, 60th Congress, 2nd Session, #2019.
20. Senate Documents, 61st Congress, 2nd Session, #283, p. 74.
21. Congressional Record, 60th Congress, 2nd Session, p. 2505.
22. House Reports, 61st Congress, 2nd Session, #377.
23. Ibid.
24. Congressional Record, 61st Congress, 2nd Session, p. 6041.
25. Ibid., p. 6044.
26. House Reports, 62nd Congress, 2nd Session, #1155.
27. Congressional Record, 62nd Congress, 2nd Session, p. 11339.
28. Congressional Record, 61st Congress, 3rd Session, p. 27.